

CARMEL CITY CODE
CHAPTER 10: ZONING & SUBDIVISIONS
ARTICLE 1: ZONING CODE
CARMEL ZONING ORDINANCE
CHAPTER 29: ADMINISTRATION

- 29.00 Administration.
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29.00 Administration.

29.01 The City Council.¹

The authority and duties of the City Council established by this Ordinance and detailed herein are:

29.01.01 Consider amendments to the written zoning regulations.²

29.01.02 Consider amendments to the Official Zoning Map.³

29.02 The Commission.⁴

The authority and duties of the Commission established by this Ordinance and detailed herein are:

29.02.01 Advise the City Council in writing on amendments to the written zoning regulations.⁵

29.02.02 Advise the City Council in writing on amendments to the Official Zoning Map.⁶

29.02.03 Consider Development Plan and ADLS applications for all applicable Primary Zoning Districts.⁷

29.02.04 Consider DP and ADLS applications for Overlay Zone Districts.⁸

¹ Section 29.01 amended per Ordinance No. Z-453-04, §fg.

² See Section 31.06.02: *Proposals to Amend or Partially Repeal the Text of the Ordinance.*

³ See Section 31.06.03: *Proposals to Change the Zone Maps Incorporated into the Ordinance.*

⁴ Section 29.02 amended per Ordinance No. Z-453-04, §fh-fi.

⁵ See Section 31.06.02: *Proposals to Amend or Partially Repeal the Text of the Ordinance.*

⁶ See Section 31.06.03: *Proposals to Change the Zone Maps Incorporated into the Ordinance.*

⁷ See Chapter 24: *Planned District Regulations.*

⁸ See Chapters 23A, 23B, 23C, 23D and 23E.

29.03 The Board.⁹

The authority and duties of the Board established by this Ordinance and detailed herein are:

29.03.01 Consider Special Use and Special Exception applications.¹⁰

29.03.02 Consider variance applications.¹¹

29.03.03 Consider appeals.¹²

29.03.04 Final interpretation of zoning district boundaries.¹³

29.03.05 Make decisions concerning the existence of nonconforming uses.¹⁴

29.04 The Director.¹⁵

29.04.01 It shall be the duty of the Director to administer and enforce this Ordinance. All permits, Certificates of Occupancy and so forth are issued by the Director, and he shall be responsible for determining that all such permits required herein are in compliance with the terms of this Ordinance. He shall receive applications required by this Ordinance, furnish prescribed documents and forms, issue notices or orders as may be necessary, regulate and administer all matters pertaining to zoning, subdivision and signage control within the jurisdiction of the Commission, including the retention of all records related thereto with the exception of official documents required to be retained by the Clerk-Treasurer. All such records shall be open to public inspection during normal office hours, but shall not be removed from the office of the Director.

29.04.02 Improvement Location Permits and Certificates of Occupancy.

See Carmel City Code; Chapter 7: Building Code; Article 3: Specific Regulations.

29.04.03 *unassigned.*

29.04.04 Records of the Director. The Director shall retain records of the following items:

1. Copies of Improvement Location Permits plus associated building permits and informational materials.
2. Copies of Certificates of Occupancy, both permanent and temporary.
3. Copies of demolition permits.
4. Approved and signed subdivision plat mylars.
5. Approved and signed Development Plans.
6. Files on all activities of the Board of Zoning Appeals, the City Council and the Plan Commission, such as for the subdivision platting process, appeals, variances, special uses, Development Plans, zoning amendments (text and map changes), nonconforming use determinations and zoning district boundary determinations. Said files should include, but not be limited to, application forms, newspaper published legal notices, record of the notice to adjoining and abutting property owners, plans and other required or necessary information concerning the application and minutes of the applicable body that pertain to the application.

⁹ Section 29.03 amended per Ordinance No. Z-365-01.

¹⁰ See Chapter 21: Special Uses & Special Exceptions.

¹¹ See Sections 30.04: Variances and 30.05: Variance Procedure.

¹² See Sections 30.01: Appeals to the Board and 30.02: Appeal Procedure.

¹³ See Section 4.06: Interpretation of the Zoning Map.

¹⁴ See Section 28.06: Existence of a Nonconforming Use.

¹⁵ Section 29.04 amended per Ordinance No. Z-434-03; Z-453-04, §ff-fn.

29.05 The Clerk-Treasurer.¹⁶

It shall be the duty of the Clerk-Treasurer to retain the official copy of the Zoning Ordinance and all amendments thereto and the Official Zoning Map. All official zoning materials shall be available for public viewing in the office of the Clerk-Treasurer during normal office hours.

29.06 Filing Fees.¹⁷

Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees hereinafter specified, and shall be paid to the City of Carmel and collected by the Department. On or before December 31st of each year, the Director shall determine if there has been an increase in the Consumer Price Index (United States city average) prepared by the United States Department of Labor, by comparing the arithmetic mean of the Index for July, August, and September of the current year with the same three-month period of the preceding year. If there has been an increase, the increase shall be stated as a percentage of the arithmetic mean for the three-month period of the year preceding the current year (the Adjustment Percentage). The Adjustment Percentage shall be rounded to the nearest one-tenth of one percent (0.1%) and may not exceed four percent (4%), unless otherwise provided by ordinance. Whenever the Director determines that there has been an increase, the Director may make a corresponding adjustment to the filing and inspection fees (including late fees) that are assessed under this *Section 29.06*, in order to recoup increases in personnel and administrative costs within the Department. However the adjustment may not be greater than the Adjustment Percentage determined under this paragraph. The adjusted fees as determined by the Director under this paragraph take effect on January 1st of the succeeding year.

29.06.01 Filing Fees.¹⁸

1.	Primary Plat	\$834.00 plus \$111.00 per lot
2.	Amended Plat or Replat (Primary, Secondary or Plat Vacation)	\$277.50 plus \$111.00 per lot
3.	Secondary Plat	\$834.00 plus \$111.00 per lot
4.	Lot Split	\$277.50
5.	Zoning Ordinance Amendment (text or map/rezone)	\$834.00 plus \$111.00 per acre
6.	PUD Ordinance	\$2698.00 plus \$111.00 per acre
7.	Development Standards Variance:	
	a. Single-family (primary residence)	a. \$270.00 plus \$83.00 for each additional variance request
	b. All other	b. \$1056.00 plus \$500.00 for each additional variance request
8.	Use Variance/Special Exception	\$1389.00 plus \$111.00 per acre

¹⁶ Section 29.05 amended per Ordinance No. Z-453-04, §fo.

¹⁷ Section 29.06 amended per Ordinance No. Z-351; Z-365-01; Z-419-03, §b; 2005 CPI Adjustment; Z-470-05, §s; 2006 CPI Adjustment; 2007 CPI Adjustment.

¹⁸ Fees in Section 29.06.01 effective January 2, 2007 per 2007 CPI Adjustment.

9.	Subdivision Regulations Waiver	\$834.00 plus \$389.00 for each additional waiver request
10.	Special Use & Special Use Amendment	\$834.00 plus \$111.00 per acre
11.	Development Plan	\$834.00 plus \$111.00 per acre
12.	Amended Development Plan	\$834.00 plus \$111.00 per acre
13.	Appeal	\$138.50
14.	Architectural Design, Lighting, and Sign Approval	\$834.00 (plus \$111.00 per acre when not accompanied by a Development Plan)
15.	Amended ADLS	
	a. Sign only	a. \$277.50 plus \$55.50 per sign
	b. Building/site	b. \$556.00 plus \$55.50 per acre
16.	Condominium Review (<i>formerly Horizontal Property Regime</i>)	\$1111.00 plus \$111.00 per lot
17.	Commitment Amendment	\$1111.00 per commitment
18.	Site Plan & Design Review	
	a. Residential petition	a. \$138.50
	b. Commercial petition	b. \$389.00
19.	Technical Advisory Committee	\$277.50
20.	Traffic Impact Analysis Review	\$834.00
21.	Traffic Study Review	\$1668.00
22.	Zoning Certificate	\$83.00 (no charge if for primary residence)
23.	Time Extension Review (time extension to begin construction, or extension for project completion)	\$166.00
24.	Re-Review Fee (when previously identified issues have not been corrected or plans are so poorly conceived and prepared that review cannot take place, a Re-review fee will be assessed.)	\$166.00 per Re-review

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| 25. | BZA Hearing Officer | |
| a. | Residential petition | a. \$138.50 plus \$83.00 for each additional variance request |
| b. | Commercial petition | b. \$556.00 plus \$277.50 for each additional variance request |
| 26. | Land Disturbance Permit | \$138.50 plus \$27.75 per acre |
| 27. | Sexually Oriented Business Permit | \$1111.00 Annual Permit |

29.06.02 Improvement Location Permit Fees (filing, inspection fees, and Certificates of Occupancy (C/O) are required on all new construction).¹⁹

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| 1. | Industrial, Institutional, and Commercial: Structures, additions, swimming pools, and accessory buildings (including public buildings and private schools) | \$404.00 plus \$0.20 per gross sq. ft., plus applicable inspections. |
| 2. | Single-family | \$404.00 plus \$0.10 per sq. ft. plus applicable inspections. |
| 3. | Two-family dwelling | \$404.00 plus \$0.10 per sq. ft. over 2500 sq. ft. of total floor area, plus applicable inspections. |
| 4. | Multi-family dwelling (of any construction type or ownership classification) | \$404.00 plus \$277.50 per unit, plus applicable inspection fees. |
| 5. | Dwelling Additions | \$138.50 plus \$0.12 per sq. ft. and applicable inspection fees. |
| 6. | Detached garage or carport | \$138.50 plus applicable inspection fees. |
| 7. | Residential accessory buildings or structures with or without permanent foundations (excluding all residential accessory buildings under 120 sq. ft., farm buildings under 400 sq. ft.) | \$83.00 plus \$0.10 per sq. ft. over 150 sq. ft. of total floor area, plus applicable inspection fees. |

¹⁹ Fees in Sections 29.06.02-29.06.09 effective April 2, 2007 per 2007 CPI Adjustment.

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| 8. | Structural Modification (Exterior or Interior Remodeling): | |
| a. | Residential | a. \$138.50, plus applicable inspection. |
| b. | Commercial, Industrial & Institutional | b. \$294.00, plus \$0.20 per sq. ft. and applicable inspection fees. |
| c. | Moving or changing location of building or structure (except mobile homes and other building with non-permanent foundations) | c. \$138.50, plus inspection fees. |
| 9. | Residential Swimming Pool: Single-family residential (Excluding portable pools two feet, nine inches (2' 9") or less in depth) | \$277.50 plus \$0.10 per sq. ft. of total pool area plus patio area, plus applicable inspection fees. |

29.06.03 Other Fees.¹⁹

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| 1. | Temporary Use Permit (up to eighteen-month temporary permit) | \$277.50, plus applicable inspection fees |
| 2. | Temporary Use Extension | \$83.00 up to six (6) months |
| 3. | Temporary Sign | \$83.00 |
| 4. | Special Event Permit (five-day permit) | \$138.50 |
| 5. | Special Event Extension (up to five (5) days) | \$83.00 |
| 6. | Sign permit application | \$83.00 |
| 7. | Sign installation – Improvement permit | \$33.25 per sign face plus \$1.76 per sq. ft. |
| 8. | Time Extension Review (one time extension to start construction, or one time extension for finishing construction) | \$166.00 |

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| 9. | Re-Review Fee (when previously identified issues have not been corrected or plans are so poorly conceived and prepared that review cannot take place, a Re-review fee will be assessed.) | |
| a. | Residential | a. \$138.50 |
| b. | Commercial | b. \$277.50 |
| 10. | Plan Amendment (Modifications of scope of work after permit has been issued) | |
| a. | Residential | a. \$138.50 |
| b. | Commercial | b. \$277.50 |
| 11. | Record Research/Plan Retrieval | \$55.50 per request (no charge if for primary residence) |

29.06.04 Certificate of Occupancy Fees.¹⁹

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| 1. | Residential | \$55.50 per dwelling unit. |
| 2. | Industrial, Commercial and Institutional Buildings | \$111.00 per leased section. |
| 3. | Partial C/O | |
| a. | Residential | a. \$111.00 |
| b. | Commercial | b. \$222.00 |
| 4. | Temporary C/O | |
| a. | Residential | a. \$27.75 |
| b. | Commercial | b. \$55.50 |
| 5. | Certificate of Substantial Completion | \$111.00 |

29.06.05 Demolition Permit Fees.¹⁹

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| Demolition or removal of buildings or structures | \$138.50 for the first building or structure plus \$83.00 for each additional building or structure. |
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29.06.06 Inspections (Additional).¹⁹

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| 1. | Footing and underslab plumbing: | |
| a. | Residential | a. \$57.50 per inspection. |
| b. | Commercial/Industrial | b. \$104.00 per inspection. |
| 2. | Electrical – New meter base, meter base relocation, and panel upgrades: | |
| a. | Residential | a. \$57.50 per inspection. |
| b. | Commercial/Industrial | b. \$104.00 per inspection. |
| 3. | Bonding and Grounding (pools) | |
| a. | Residential | a. \$57.50 per inspection. |
| b. | Commercial | b. \$104.00 per inspection. |
| 4. | Rough-in (electrical, plumbing, heating and air conditioning): | |
| a. | Residential | a. \$57.50 per inspection. |
| b. | Commercial/Industrial | b. \$104.00 per inspection. |
| 5. | Final structure: | |
| a. | Residential | a. \$57.50 per inspection. |
| b. | Commercial/Industrial | b. \$104.00 per inspection. |
| 6. | Final site: | |
| a. | Residential | a. \$57.50 per inspection. |
| b. | Commercial/Industrial | b. \$104.00 per inspection. |
| 7. | All Other Inspections: | |
| a. | Residential | a. \$57.50 per inspection. |
| b. | Commercial/Industrial | b. \$104.00 per inspection. |
| 8. | Duplicate Permit Placards | \$16.50 each. |

29.06.07 Late Fees for Permits.¹⁹

Late fees shall be assessed for construction started prior to obtaining required permits:

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| 1. | Single-family | Twice Normal Fee. |
| 2. | Multi-family | Twice Normal Fee. |
| 3. | Commercial | Twice Normal Fee. |
| 4. | Institutional | Twice Normal Fee. |

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| 5. | Industrial | Twice Normal Fee. |
| 6. | All Other (including signs, pools, accessory buildings, porches, room additions, barns, or storage buildings, <i>etc.</i>) | Normal Fee + \$111.00 late fee within five (5) days after official notice of the violation from the Department. The fee will be increased by \$27.75 per day as long as the violation continues, up to, but not to exceed \$2500.00. |

29.06.08 Late Fees on Inspections.¹⁹

Late fees shall be assessed on missed inspections, including occupancy without a C/O, in the following fashion:

	<u>Each Violation:</u>
1. Single-family, Two-family	\$834.00
2. Multi-family	\$1111.00
3. Commercial	\$1111.00
4. Institutional	\$1111.00
5. Industrial	\$1111.00
6. Other	\$ 556.00

Additional permits will not be issued by the Department to any individual, firm, or corporation until all previously required permits, inspections and Certificates of Occupancy have been issued and all fees paid.

29.06.09 Builder Application.¹⁹

Builder Application	\$138.50 annual fee
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29.06.10 Exemptions from Fees.

The listed fees are waived for all City of Carmel, Clay Township and Carmel/Clay School System buildings or facilities.

29.07 Parks and Recreation Impact Fees.²⁰

Adopted and approved on March 7, 2005, and effective on and after September 7, 2005, as set forth in *Section 29.07.14.*

29.07.00 Title.

This ordinance shall be referred to and known as the Parks and Recreation Impact Fee Ordinance (the "PRIF Ordinance") for Carmel/Clay Township, Hamilton County, Indiana.

29.07.01 Definitions.

Terms used in this Ordinance are defined in *Chapter 3: Definitions.*

29.07.02 Establishment of Impact Zone.

There is hereby established one Parks and Recreation Infrastructure Impact Zone, the borders of which are coterminous with the boundaries of Clay Township, Hamilton County, Indiana, and, over which the City of Carmel exercises planning and zoning jurisdiction pursuant to IC 36-7-4-205. In this regard, the Council specifically finds that there is a functional relationship between the components of the Park and Recreation Master Plan and the 2005-2010 Zone Improvement Plan, as each is amended from time to time, and that such plans will provide a reasonably uniform benefit to all of the citizens throughout the Impact Zone. The Council further finds that all areas within the Impact Zone are contiguous as required in IC 36-7-4-1316. Except as provided below, this PRIF Ordinance shall apply uniformly to all developments within the Impact Zone hereby established for which the City of Carmel and Clay Township may require an improvement location permit and which create a need for new and additional Parks and Recreation Infrastructure. This PRIF Ordinance shall not apply to:

- (1) improvements which do not require an Improvement Location Permit;
- (2) improvements which do not create a need for new and additional Parks and Recreation Infrastructure, including the erection of a sign, construction of accessory buildings, structures or fences or the alteration, renovation or expansion of an improvement where the use, or intensity thereof, has not changed; or
- (3) the replacement of destroyed or partially destroyed improvement, provided that the replacement improvement does not create a need for new and additional Parks and Recreation Infrastructure over and above the infrastructure needed by the original improvement prior to the destruction or partial destruction thereof.

29.07.03 2005-2010 Zone Improvement Plan.

The Council hereby finds that, prior to the adoption of this PRIF Ordinance, the Commission undertook a comprehensive and detailed park and recreational impact analysis and consulted with the City Civil Engineer (appointed under IC 36-4-9-8), and the resulting study and data base were used in the preparation of the 2005-2010 Zone Improvement Plan as required by IC 36-7-4-1318(d). The Council has heretofore adopted the 2005-2010 Zone Improvement Plan and finds in this regard that the 2005-2010 Zone Improvement Plan does contain the following elements:

- (a) Reasonable estimates relating to the nature of location of development that is expected within the Impact Zone during the planning period, which, for the purposes of this PRIF Ordinance is defined to be a period of ten (10) years commencing with the date of adoption hereof.
- (b) A reasonable determination of the community level of service for the Impact Zone.
- (c) A reasonable determination of the current level of service provided within the Impact Zone.

²⁰ *Section 29.07 amended per Ordinance No. Z-356; Z-416-03, §h-i; Z-471-05.*

- (d) A reasonable estimate of the nature, location, sequencing, and timing of the park and recreational improvements and costs necessary to provide the community level of service for the developments contemplated in *Subparagraph (a)* hereof.
- (e) A reasonable estimate of the share of the park and recreational costs identified in *Subparagraph (d)* hereof that will be used to:
 - (1) Raise the current level of service for existing development or provide service to existing development; or
 - (2) Provide service to new development.
- (f) A reasonable estimate of revenues that:
 - (1) Are from sources other than impact fees; and,
 - (2) Will be used to finance the costs identified in *Subparagraph (e) (1)* above.
- (g) A description of the nature and location of existing infrastructure in the Impact Zone.
- (h) A general description of the sources and amounts of money used to pay for infrastructure during the previous five years.

In addition, the Council has specifically adopted the 2005-2010 Zone Improvement Plan as an official part of the Carmel/Clay Comprehensive Plan pursuant to IC 36-7-4-500 *et seq.*

29.07.04 Establishment of Impact Fee.

Based upon the Park and Recreation Master Plan and 2005-2010 Zone Improvement Plan previously referred to and which is made a part of this PRIF Ordinance, the Council determines that the impact costs, minus the sum of non-local revenues and impact deductions (as defined in IC 36-7-4-1321), do not exceed the amount of One Thousand Two Hundred Sixty One and no/100's Dollars (\$1,261.00) per equivalent dwelling unit, and that, therefore, the impact fee to be imposed on every development subject to this PRIF Ordinance shall equal the product of:

- (a) One Thousand Two Hundred Sixty One and no/100's Dollars (\$1,261.00), times
- (b) the number of equivalent dwelling units to be constructed pursuant to the improvement location permit obtained by the fee payer.

The Council does hereby make as a part of the record of these proceedings, all of the data collected, the calculations made, and the conclusions reached by the Commission in the process of developing the 2005-2010 Zone Improvement Plan, and specifically instructs the Director to make such data and other information inclusively available to anyone for review during regular business hours. In the event that any parcel of real estate considered in the creation of the 2005-2010 Zone Improvement Plan undergoes a change in use, redevelopment, or a modification which requires an improvement location permit, and creates a need for new infrastructure, an impact fee will be assessed only for the increase in the burden on infrastructure.

29.07.05 Credit in Lieu of Payment; Exemptions.

Pursuant to IC 36-7-4-1335, any person obligated to pay a fee pursuant to the terms of this PRIF Ordinance may be granted the option of financing, constructing and dedicating Parks and Recreation Infrastructure instead of making all or part of any impact fee payment which may be due, so long as such financing, construction and dedication are accomplished pursuant to the 2005-2010 Zone Improvement Plan and with the consent and acceptance of the Parks Board. Such fee payer, or other person providing the infrastructure or improvement, shall be allowed a credit in an amount equal to the sum of

- (A) the actual cost of constructing or providing the infrastructure or improvements, plus
- (B) the fair market value of the land, real property interests, and site improvements provided.

The amount of the credit shall be determined by agreement (the “Credit Agreement”) between the person constructing or providing the infrastructure or improvement and the Parks Board. A fee payer shall make a request for credit prior to the issuance of the improvement location permit. In the event the credit is less than the amount of the impact fee due pursuant to Section 29.7.4 above, the remaining balance shall be due in accordance with the provisions stated hereafter. Credits against impact fees otherwise due shall be allowed pursuant to this section for all infrastructure and improvements constructed or furnished in accordance with IC 36-7-4-1313 and IC 36-7-4-1335 since January 1, 1989. In addition, a fee payer or other person responsible for installing infrastructure or improvements may designate in writing a method of allocating its credits to future fee payers who may be successors in interest to the credits earned by the fee payer or others, as part of the Credit Agreement provided for above. Any person otherwise obligated to pay the fee established by this PRIF Ordinance whose property was totally or partially destroyed by fire, storm or other casualty beyond his or her control, shall be exempt from said fee if such person repairs or replaces the destroyed structure without creating a burden on Parks and Recreation Infrastructure greater than the burden imposed by the destroyed structure. In the event of such additional burden, the fee shall be calculated based only on the increased burden created by the structure.

29.07.06 Impact Fee Due Upon Issuance of Improvement Location Permit.

The impact fee imposed pursuant to the terms of this PRIF Ordinance shall be due and payable upon the issuance of an Improvement Location Permit. The entire fee which is calculated pursuant to the terms of this PRIF Ordinance shall be due at said time unless the amount of the fee upon calculation is greater than Five Thousand Dollars (\$5,000), in which case an installment plan may be requested by the applicant in accordance with the terms set forth in IC 36-7-4-1324 (a), (b), (c), and (d). The Review Board shall establish specific rules consistent with said code provisions for installment payments. The interest rate on any installment plan or deferred payment shall be the pre-judgment rate of interest set forth in the Indiana Code as from time to time amended. If a fee payer requests, the amount of the impact fee shall be assessed upon the voluntary submission of a development plan or upon the issuance of the improvement location permit, whichever is earlier. For purposes of this section, “assessment” means the act of calculating the amount of the impact fee which shall be due. The Director shall make such assessment within thirty (30) days of the date of such voluntary request or at the issuance of the Improvement Location Permit with or without a request.

29.07.07 Lien Rights Established.

Pursuant to IC 36-7-4-1325, the City of Carmel acquires a lien against the real estate which is the subject of the impact fee. Upon adoption, this PRIF Ordinance shall be recorded, and, thereafter, it shall constitute constructive notice of the lien rights of the City. The City may, in its discretion, file a specific instrument setting forth its lien rights with respect to a parcel of real estate which is the subject of an installment payment plan for an impact fee, and such instrument shall constitute actual notice in addition to the constructive actual notice in addition to the constructive notice provided for by the recording of this PRIF Ordinance.

29.07.08 Form of Receipt.

The Director shall issue a receipt for any and all impact fees collected, and the form of such receipt shall be as follows:

Received of [fee payer], this [date] day of [month, year], the sum of \$ [amount] in [full/partial] satisfaction of impact fees due pursuant to Ordinance No. Z-471-05 relating to improvements to be constructed on the real estate described on Exhibit A, attached hereto, made part hereof, and subject to lien rights in favor of the City of Carmel in the event of partial payment with payments remaining due. The remaining balance due (if any) is in the following amount: \$_____. This impact fee is dedicated to the creation of the following infrastructure elements in accordance with the 2005-2010 Zone Improvement Plan: _____.

DEPARTMENT OF COMMUNITY SERVICES
City of Carmel

29.07.09 Establishment of Review Board; Hearing of Appeals.

There is hereby established the Carmel Clay Impact Fee Review Board. The Review Board shall consist of three (3) citizen members (who may be residents of the City of Carmel and/or Clay Township), appointed by the Mayor of the City of Carmel to serve for terms of four (4) years; however, for the purpose of providing for staggered terms of office, the initial members of the Review Board shall be appointed for respective terms of two (2) years, three (3) years, and four (4) years. The members of the Review Board may not be members of the Commission and must meet the qualifications prescribed by IC 36-7-4-1338(b), that is,

- one (1) licensed real estate broker,
- one licensed (1) engineer, and
- one (1) certified public accountant.

Whenever a member of the Review Board is unable to participate in any matter before the board because of a conflict of interest, the Mayor shall appoint a temporary replacement member, meeting the qualifications of the member being replaced, to serve on the board for the purpose of hearing that matter only. The Review Board shall be governed by IC 36-7-4-1338(c) and all other applicable provisions of the Impact Fee Statute. Any fee payer who believes itself to be aggrieved by the calculation of an impact fee may appeal from such calculation to the Review Board and the Review Board shall conduct a hearing with regard thereto. At such hearing, the fee payer shall bear the burden of going forward with the evidence and shall present evidence addressing either of the following propositions:

- (a) A fact assumption used in determining the amount of the impact fee is incorrect; or
- (b) The amount of the impact fee is greater than the amount allowed under IC 36-7-4-1320, IC 36-7-4-1321, and IC 36-7-4-1322.

Upon conclusion of the presentation of evidence, the Review Board shall make a determination within thirty (30) days, upon the facts presented and may make such adjustments in the impact fee as it deems are appropriate under the circumstances, if any. An appeal under this *Section 29.07.09* must be filed not later than thirty (30) days after the issuance of the improvement location permit. The appeal shall be initiated with the filing of a Petition for Review with the Director, together with a filing fee in the amount of One Hundred Dollars (\$100). The filing fee shall be refunded in full:

- (1) if the Petition of Review is granted and the impact fee is eliminated, reduced or adjusted by the Review Board, by independent action of the Director, or by a court having jurisdiction, and
- (2) if the reviewing body determines that the amount of the fee, reductions, or credits were arbitrary or capricious.

The Petition for Review shall be in a form calculated to inform the Review Board of the nature of the complaint, the parties to the action, and the relief requested. In addition, the petition shall describe the new development on which the impact fee has been assessed, all facts related to the assessment of the impact fee, and the reasons the petitioner believes that the amount of the impact fee assessed is erroneous or is greater than the amount allowed by the fee limitations set forth in the Impact Fee Statute. The Director shall not deny the issuance of improvement location permit on the basis that the impact fee has not been paid, or condition issuance of the permit on the payment of the impact fee. However, unless the impact fee exceeds One Thousand Dollars (\$1,000), the fee payer shall pay the impact fee or initiate an appeal under this section before being issued the permit.

29.07.10 Establishment of Impact Fee Fund.

There is hereby established an Impact Fee Fund within the City of Carmel to receive any and all sums collected pursuant to this PRIF Ordinance and any other Impact Fee Ordinance that may hereafter be adopted, to be utilized in connection with the purposes set forth in *Section 29.07.11* below. A special account shall be established in the fund for Parks and Recreation Infrastructure which shall be kept separate from any other account that may hereafter be established in the fund for other infrastructure types. In the event, and only in the event, that an additional Impact Zone for Parks and Recreation Infrastructure is created hereafter, a separate account shall be maintained for each separate Impact Zone established within the City of Carmel and Clay Township. Interest earned on any such account shall be deposited and maintained within the separate account. The Fiscal Officer shall manage the Impact Fee Fund according to the provisions of the Impact Fee Statute and maintain records of the status of any such account. Pursuant to IC 36-7-4-1329, the Fiscal Officer shall make an annual report to the Commission and the Parks Board of said accounts which shall be available to the public in general and fee payers, upon request, in particular. The right to any refund of an impact fee shall be determined strictly in accordance with IC 36-7-4-1332, and the Fiscal Officer is designated, pursuant to IC 36-7-4-1332(e), as the official responsible for acting upon any refund applications that may be filed by fee payers. In order to facilitate the payment of any refunds when they may be due, the Fiscal Officer is directed to identify the purpose of any impact fee paid in order that a refund, if any, may be paid from the account into which the fee was originally deposited.

29.07.11 Use of Impact Fees Collected.

Any and all fees collected pursuant to the provisions of this PRIF Ordinance may be utilized only for the following purposes:

- (a) Providing funds to be utilized by the Parks Board for the purpose of paying the capital costs of Parks and Recreation Infrastructure that is necessary to serve the new development within the City of Carmel and Clay Township and that is identified in the 2005-2010 Zone Improvement Plan;
- (b) An amount not to exceed Five Percent (5%) of the annual collections of the fees, to be utilized by the Parks Board for expenses incurred by such City and Township for the consulting services that are used with regard to the establishment and maintenance of this impact fee program;
- (c) To pay any refund that may be due under IC 36-7-4-1332;
- (d) To pay the debt service cost on an obligation issued to provide Parks and Recreation Infrastructure described in *Subparagraph (a)* above, in accordance with IC 36-10-3-27 or other applicable law.

29.07.12 Conflicts with Impact Fee Statute.

The Council specifically acknowledges the existence of the Impact Fee Statute, which regulates the adoption of impact fee ordinances by municipal corporations within the State of Indiana. It is the intent of the Council to comply with such legislation, and this PRIF Ordinance shall be construed in all respects to be consistent with the Impact Fee Statute. The substantive and procedural requirements of the Impact Fee Statute shall control in the event of conflicts, which are unintended by the Council.

29.07.13 Amendments and Review.

The impact fee provided for herein is based upon information that, in large part, is subject to inflation and other economic and market forces over which the Council has no control. The Council may, therefore, not less than once each year, cause a review to be made by the Director or such consultants as may be required, to determine the continuing validity of the Impact Fee, the Impact Zone, and the 2005-2010 Zone Improvement Plan. The Council may consider and adopt such amendments as are necessary to cause a substantive compliance with all constitutional and statutory requirements. To the extent required by the facts and circumstances, this process shall include the steps necessary to update the 2005-2010 Zone Improvement Plan and the Comprehensive Plan.

29.07.14 Effective Date and Expiration Date.

Pursuant to IC 36-7-4-1340, this PRIF Ordinance shall be effective September 7, 2005, which is not earlier than (6) months following its adoption in accordance with the Impact Fee Statute, replacing the PRIF Ordinance adopted in December 2000 and wholly contained in *Section 29.07* of the Carmel City Code. This PRIF Ordinance shall expire five (5) years following such effective date²¹, and no impact fee may be collected under this PRIF Ordinance after such expiration date. However, the Council may adopt a replacement impact fee ordinance to take effect before, on, or after such expiration date if the replacement ordinance complies with the provisions of the Impact Fee Statute.

²¹ Ordinance No. Z-471-05 expires September 7, 2010

**CHAPTER 29: ADMINISTRATION
AMENDMENT LOG**

Ordinance No.	Docket No.	Council Approval	Effective Date	Sections Affected
Z-305	32-95 OA	July 17, 1995	July 17, 1995	29.06
Z-351	143-00a OA	November 6, 2000	November 6, 2000	29.06
Z-356	177-00 OA	December 18, 2000	June 18, 2001	29.07
Z-365-01	76-01a OA	November 5, 2001	November 27, 2001	29.03.01; 29.06; 29.06.02(1); 29.06.02(11); 29.06.07(e); 29.06.08
Z-416-03	40-02 OA	November 17, 2003	November 18, 2003	29.07 Autumn 2003 v1
Z-419-03	116-03 OA	November 17, 2003	29.06.01; 29.06.09: Monday, January 5, 2004 29.06.02-29.06.08: Wednesday, February 18, 2004 ²²	29.06 Autumn 2003 v1
Z-434-03	116-03 OA	December 15, 2003	December 16, 2003	29.04 Autumn 2003 v1
Z-453-04	150-02 OA	August 16, 2004	August 16, 2004	29.01.02; 29.02.02; 29.02.03; 29.04.02; 29.04.03; 29.04.04; 29.05 Summer 2004 v1
2005 CPI Fee Adjustment	N/A	N/A	29.06.01: January 3, 2005 29.06.02-29.06.09: April 4, 2005 ²²	29.06 Winter 2005 v1
Z-470-05	04100026 OA	February 21, 2005	February 21, 2005	29.06.01(§§6,26,27) Winter 2005 v2
Z-471-05	04050012 OA	March 7, 2005	September 7, 2005	29.07 Winter 2005 v2
2006 CPI Fee Adjustment	N/A	N/A	29.06.01: January 2, 2006 29.06.02-29.06.09: April 3, 2006 ²²	29.06 Spring 2006 v1
2007 CPI Fee Adjustment	N/A	N/A	29.06.01: January 2, 2007 29.06.02-29.06.09: April 2, 2007 ²²	29.06 Winter 2007 v1

²² Per House Bill No. 1353, effective July 1, 2003, an ordinance increasing a building permit fee on new development must delay the implementation of the fee increase for a period ending ninety (90) days after the ordinance is approved by the executive. *Ordinance No. Z-419-03* was approved by Mayor Brainard on Thursday, November 20, 2003.